

## REMARKS

### Double Patenting Rejection

Claims 1 – 26 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1 – 12 of U.S. Patent No. 6,282,817 and claims 1 – 31 of U.S. Patent No. 6,725,575 as set forth in Paragraph 2 of the Office Action. Applicant submits a terminal disclaimer directed to the '817 and '575 patents, along with a statement under Rule 3.73(b), herewith and respectfully submits that the double-patenting rejection has been overcome.

### 35 U.S.C. § 102(b)

Paragraph 5 of the Office Action rejects claims 1 – 3, 6, 9 – 13, 16, 17, 19, 22, 23 and 25 – 26 as being anticipated by U.S. Patent No. 5,924,177 to *Jongejan*. Applicant respectfully traverses this rejection. Claim 1 calls for, among other things,

a lace comprising a first end and a second end, said lace having a length sufficient to be threaded through said plurality of eyelets starting at said first end and ending at said second end of said flaps;

[such that] when said lace is secured at said second end of said flaps, at least one loop is formed adjacent said first ends of said flaps.

Claim 10 calls for, among other things,

a lace comprising a first end and a second end, said lace having a length sufficient to be threaded through said plurality of eyelets starting at a second side of said plurality of said eyelets and ending at said first side of said plurality of said eyelets;

[such that] when said lace is secured at said first side, at least one loop is formed adjacent said second side of said plurality of eyelets distal from said toe portion.

Finally, claim 17 calls for, among other things,

passing a lace through said plurality of eyelets beginning at said second side and ending at said first side so that tightening said lace tends to pull said flaps toward each other, wherein said lace has a first end and an opposite second end

*Jongejan* fails to disclose or teach the claimed lace and lacing position.

*Jongejan*, for example, discloses a lace threaded through the plurality of eyelets starting at the eyelets proximate the toe box and ending at the eyelets distal from the toe box. The lace

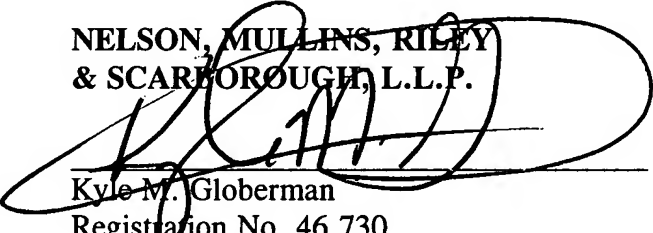
in *Jongejan* is secured at the eyelets distal from the toe box by tying a bow and creating loops at the first end. For at least this reason, *Jongejan* fails to anticipate independent claims 1, 10, and 17. The dependent claims 2 - 9, 11 - 16 and 18 - 26 depend directly or indirectly from the independent claims and further define other patentable features of the invention.

### CONCLUSION

Applicant submits that the application is in condition for allowance. Favorable action and withdrawal of the present rejections and objections is, therefore, respectfully requested. The Examiner is invited to call the undersigned at his convenience to resolve any remaining issues. Please charge any fee deficiencies and/or credit any overpayments to Deposit Account No. 50-1196.

Respectfully submitted,

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